

November 1, 2023

VIA CM/ECF

Hon. Gregory H. Woods
United States District Court, Southern District of New York
500 Pearl Street, Room 1920, New York, NY 10007

Re: *U.S. Bank National Association, et al. v. The Charitable Donor Advised Fund, L.P. and CLO HoldCo Ltd. (Case No. 1:21-cv-11059-GHW)*

Dear Judge Woods,

Plaintiffs/Counter-Defendants U.S. Bank, National Association, in its capacity as trustee (the “Trustee”), Acis Capital Management, L.P. (“ACM”), and Joshua N. Terry (“Mr. Terry,” and, together with ACM and the Trustee, “Plaintiffs”), Defendants/Counter-Plaintiffs Charitable DAF Fund, LP a/k/a The Charitable Donor Advised Fund, L.P. (“DAF”), CLO HoldCo, Ltd. (“CLOH”), and NexPoint Diversified Real Estate Trust (“NexPoint,” and, together with DAF and CLOH, “Defendants”), and Counter-Defendant Brigade Capital Management, LP (“Brigade,” and, collective with Plaintiffs and Defendants, the “Parties”) jointly submit this letter pursuant to Paragraph 1.E of the Court’s Individual Rules of Practice in Civil Cases to request a brief extension of expert discovery deadlines set out in the Court’s Case Management Plan and Scheduling Order (the “CMO,” Dkt. 76, as amended by Dkts. 159, 191, 196, and 211). This is the fifth request for an extension. All Parties consent to the Request. Counter-Defendant Highland CLO Funding, Ltd. (“HCLOF”) is not a party to this letter and takes no position with respect to the extension of the deadlines as it is not participating in discovery per the Court’s August 4, 2023, Order (Dkt. 172).

To accommodate scheduling conflicts and as a matter of professional courtesy, the Parties have agreed to jointly seek an extension of the deadline for party-proponents of a claim to offer initial expert disclosures from November 3, 2023, to November 7, 2023, (CMO, para 8(c)); extending the deadline for party-opponents of a claim to offer opposing/rebuttal expert disclosures from December 13, 2023, to December 19, 2023, (CMO, para 8(c)); and extending the close of expert discovery from January 12, 2024, to January 16, 2024 (CMO, para 8(b)).

The Parties and HCLOF respectfully reserve their rights to seek additional revisions. Further, CLOH and DAF respectfully specifically reserve their rights to seek additional revisions depending upon the resolution of their pending motions to compel (Dkts. 205 and 206) and of HCLOF’s pending motion to dismiss (Dkt. 177).

In making this proposal, none of the Parties waive any of their respective substantive or procedural rights, all of which they respectively reserve.

The Parties thank the Court for its attention to this request.

Respectfully Submitted,

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